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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,263	06/20/2003	Wayne Allen Wade	2207.002CIP	7552
27834	7590	09/16/2005		EXAMINER
LAW OFFICE OF RAY B. REGAN P.O. BOX 1442 CORRALES, NM 87048			CASTELLANO, STEPHEN J	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/600,263	WADE, WAYNE ALLEN	
	Examiner Stephen J. Castellano	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 9-17 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,4-8,18,19,21 and 22 is/are rejected.
- 7) Claim(s) 3 and 20 is/are objected to.
- 8) Claim(s) 1-22 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 June 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/22/04&amp;7/30/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____.                                    |

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 9-17, drawn to a method of making, classified in class 72, subclass unknown.
- II. Claims 1-8 and 18-22, drawn to a tank, classified in class 220, subclass 567.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made without a mold by shaping with cutting tools from a block of plastic.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Ray Regan on August 25, 2005 a provisional election was made with traverse to prosecute the invention of Group I, the tank, claims 1-8 and 18-22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-17 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the adjustable rings of claims 3 and 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claims 3 and 20 are objected to because the adjustable rings have not been shown in a drawing figure.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no antecedent basis in the written specification for the adjustable rings of claims 3 and 20 or for the range of thickness in claims 6-8.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-8, 18, 19, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redding in view of Clarke et al. (Clarke).

Redding discloses a thermoplastic (polyethylene) molded fuel tank as shown in Fig. 4 by rotating 90 degrees in either direction comprising an upper chamber connected to a lower chamber, circular first ports formed with an opening in the upper chamber and circular hollow second ports formed in an opening in the lower chamber, and molded through tapered columns (each column formed by a pair of projections 30, one projection connected with a first port and an adjacent projection connected with a second port) connected with the first and second ports. Redding discloses the invention except for the size of the opening formed in the second ports

being less than the size of the openings formed in the first ports. Clarke teaches a molded fuel tank having a first port (rear opening 64) connected to an opposed second port (front opening 62), the diameter of the second port opening is less than the diameter of the first port opening, a molded through tapered column (internal chamber 58) engages the first and second ports. It would have been obvious to modify Redding so that the second port opening diameter is less than the first port opening diameter in order to provide the desired reinforcing at a center of the tank to resist expansion and bursting from internal pressure, also the opening through the column extends from the first port to the second port an eliminates the need for tank molded material inside the column producing a saving of material.

Re claims 6-8, the ranges of thickness are obvious in view of the lack of criticality given to the three ranges mentioned as motivated by a need for a more durable, stronger and higher impact resistant tank one of ordinary skill would increase thickness and as motivated by a need for a lighter tank and a tank that uses less material one of ordinary skill would decrease thickness. A medium thickness tank optimizes the needs associated with increased thicknesses and the needs associated with decreased thicknesses.

Re claims 18, 19, 21 and 22, the fuel tank is capable of functioning as a septic tank.

It is believed that the objection to claims 3 and 20 can't be overcome without adding new matter. Claims 3 and 20 are not in allowable condition.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on Tuesday - Friday 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Stephen J. Castellano  
Primary Examiner  
Art Unit 3727

sjc